

APPENDIX

Revenue Act of 1936, c. 690, 49 Stat. 1648:

SEC. 111. DETERMINATION OF AMOUNT OF,
AND RECOGNITION OF, GAIN OR LOSS.

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(c) *Recognition of Gain or Loss.*—In the case of a sale or exchange, the extent to which the gain or loss determined under this section shall be recognized for the purposes of this title, shall be determined under the provisions of section 112.

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SEC. 112. RECOGNITION OF GAIN OR LOSS.

(a) *General Rule.*—Upon the sale or exchange of property the entire amount of the gain or loss, determined under section 111, shall be recognized, except as hereinafter provided in this section.

(b) *Exchanges Solely in Kind.*—

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(3) *Stock for Stock on Reorganization.*—No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

(4) *Same—Gain of Corporation.*—No gain or loss shall be recognized if a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in

another corporation a party to the reorganization.

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(g) *Definition of Reorganization.*—As used in this section and section 113—

(1) The term “reorganization” means

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(D) a recapitalization, * * *

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Revenue Act of 1943, c. 63, 58 Stat. 26:

SEC. 121. REORGANIZATION OF CERTAIN
INSOLVENT CORPORATIONS.

(a) *Nonrecognition of Gain or Loss on Certain Reorganizations.*—Section 112 (b) (relating to recognition of gain or loss upon certain exchanges) is amended by inserting at the end thereof the following:

“(10) *Gain or loss not recognized on reorganization of corporations in certain receivership and bankruptcy proceedings.*—No gain or loss shall be recognized if property of a corporation (other than a railroad corporation, as defined in section 77m of the National Bankruptcy Act, as amended) is transferred, in a taxable year of such corporation beginning after December 31, 1933, in pursuance of an order of the court having jurisdiction of such corporation—

“(A) in a receivership, foreclosure, or similar proceeding, or

“(B) in a proceeding under section 77B or Chapter X of the National Bankruptcy Act, as amended,

to another corporation organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, in exchange solely for stock or securities in such other corporation.”

(b) *Recognition of Gain or Loss of Security Holders in Connection with Certain Corporate Reorganizations.*—Section 112 (relating to recognition of gain or loss) is amended by inserting at the end thereof the following:

“(1) *Exchanges by Security Holders in Connection With Certain Corporate Reorganizations.*—

“(1) *General rule.*—No gain or loss shall be recognized upon an exchange consisting of the relinquishment or extinguishment of stock or securities in a corporation the plan of reorganization of which is approved by the court in a proceeding described in subsection (b) (10), in consideration of the acquisition solely of stock or securities in a corporation organized or made use of to effectuate such plan of reorganization.

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(26 U. S. C. (Supp. IV) 112.)

T. D. 5402, 1944-18 Int. Rev. Bull. 3:

In order to conform Regulations 111 [Part 29, Title 26, Code of Federal Regulations, Cum. Sup.] to section 121 of the Revenue Act of 1943, enacted February 25, 1944, such regulations are amended as follows:

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Sec. 112 (b) (10) applies only with respect to a reorganization effected in one of two specified types of court proceedings: (1) receivership, foreclosure or similar proceedings, or (2) bankruptcy proceedings under section 77B or Chapter X of the National Bankruptcy Act, as amended. The specific statutory requirements are the transfer of property of a corporation, in pursuance of an order of the court having

jurisdiction of the corporation in such proceeding, to another corporation organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, in exchange solely for stock or securities in such other corporation. * * *

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The application of section 112 (b) (10) is to be strictly limited to a transaction of the character set forth in such section. Hence, the section is inapplicable unless there is a bona fide plan of reorganization approved by the court having jurisdiction of the proceeding and the transfer of the property of the insolvent corporation is made pursuant to such plan. It is unnecessary that the transfer be a direct transfer from the insolvent corporation; it is sufficient if the transfer is an integral step in the consummation of the reorganization plan approved by the court. By its terms, the section has no application to a reorganization consummated by adjustment of the capital or debt structure of the insolvent corporation without the transfer of its assets to another corporation.